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7                   **IN THE UNITED STATES DISTRICT COURT**  
8                   **FOR THE WESTERN DISTRICT OF WASHINGTON**  
9                   **SEATTLE, WASHINGTON**

10 KWAN OK COVEY,

11                   Plaintiff,

12                   NO.

13                   vs.

14 KRISTJEN NIELSON, SECRETARY OF THE  
15 DEPARTMENT OF HOMELAND SECURITY  
16 FRANCIS CISSNA, DIRECTOR OF US  
17 CITIZENSHIP AND IMMIGRATION SERVICE,  
18 US CITIZENSHIP AND IMMIGRATION  
19 SERVICE  
20 Defendant.

21                   **COMPLAINT FOR MANDAMUS**

22       Comes now the Plaintiff, Kwan Ok COVEY ("Plaintiff or "Ms. [Plaintiff]"), by and through  
23 her attorney, JI MIN KIM, and pleads as follows:

24                   **I. INTRODUCTION**

25       1. This is an individual action for mandamus. It seeks to compel Defendant,  
26 Department of Homeland Security and its responsible officials, to adjudicate I-130, Petition for  
27 Alien Relative for Brother of US Citizen.

## II. JURISDICTION

2. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction); 5 U.S.C. §§ 555(b) & 706(1), the Administrative Procedures Act; 8 U.S.C. §1329, Immigration & Naturalization Act, and 28 U.S.C. § 1361, regarding an action to compel an officer of the United States to perform his duty.

### **III. VENUE**

7       3.       28 U.S.C. § 1391(e), as amended, provides that in a civil action in which each  
8 defendant is an officer or employee of the United States or any agency thereof acting in his  
9 official capacity or under color of legal authority, or is an agency of the United States, the action  
10 may be brought in any judicial district in which a defendant in the action resides. Plaintiff is a  
11 resident of the WESTERN District of WASHINGTON STATE, and defendants KRISTJEN  
12 NIELSON and FRANCIS CISSNA , being sued in their official capacity, are the Secretary of the  
13 Department of Homeland Security and Director of US Citizenship and Immigration Service,  
14 agencies of the United States. The Department of Homeland Security does business in this  
15 District.

**IV. PLAINTIFF**

17       4. Ms. Covey is a citizen of United States currently residing in Tacoma,  
18 Washington. On February 23, 2001, the Plaintiff filed an application to invite her family relative,  
19 SUNG SOO PARK, her biological brother, to the United States by filing I-130 Petition. Her  
20 application to invite her relative, rights granted by the INA statute, has been pending with no  
21 adjudication from the government

**V. DEFENDANT**

23           5.     Defendant KRISTJEN NIELSON is the duly appointed Secretary of the  
24 Department of Homeland Security. She is named in her official capacity. Ms. Nielson, as the

1 Secretary, is charged with the responsibility for delegating her discretion to the Department of  
2 Homeland Security's U.S. Citizenship and Immigration Services' ("USCIS"). Defendant  
3 FRANCIS CISSNA is the Director of US Citizenship and Immigration Service. Mr. Cissna, as the  
4 Director, is in charged with the responsibility for delegating his discretion to the USCIS.

5 VI. FACTUAL ALLEGATIONS

6 A. History of the Case

7 6. The Plaintiff, a US Citizen, resides in Tacoma, Washington. Her sibling, Sung  
8 Soo PARK, citizen of South Korea was the sole family member remaining in South Korea.  
9 Wanting to reunify the family, she decided to apply for her brother. On April 8, 2018, the  
10 Plaintiff's father passed away. The father was not able to see his youngest son in South Korea  
11 in his death bed.

12 7. The Plaintiff retained [Former Attorney] ("former attorney") on February 23, 2001  
13 to represent her to file I-130, petition for alien relative. The hope was for the family to reunify in  
14 the United States as her elderly parents were no longer able to travel to South Korea to see the  
15 youngest brother, SUNG SOO PARK.

16 8. The Plaintiff submitted I-130 inviting her brother to US government agency  
17 formally known as INS, now USCIS. Subsequently, US government issued a receipt confirming  
18 the receipt of the application.

19 9. The US government is currently pursuing application filed on January 8, 2005. In  
20 early this year the government was approving cases filed in 2004. Exhibit 1.

21 10. Upon discovering that the USCIS should have approved or denied I-130 filed by  
22 the Petitioner years ago, the Plaintiff hired an attorney to get the update from the government  
23 regarding her application

1       11. On September 21, 2017, the Attorney requested the USCIS to review and  
2 approve the petition as it was reviewed extremely beyond normal processing time. According to  
3 the processing schedule, the USCIS is now approving I-130 Petition for Brother filed on June  
4 29, 2009. The plaintiff filed this application in early 2001. Even after seventeen years, the  
5 USCIS has yet to provide any updates regarding this application. Until today there is no  
6 correspondence from USCIS or any other government agency regarding this application.

7       12. On April 11, 2018, the Plaintiff requested the update and provided up to date  
8 address. However the Plaintiff still has not received any updates from the government.

9       13. In its repeated disregard for the evidence of record and the Plaintiff's arguments  
10 of law, Defendant DHS acted in a callous and irresponsible way which contradicted the law and  
11 the applicable guidelines.

12       14. The Defendants have unreasonably, arbitrarily and capriciously abused their  
13 discretion.

14       15. No exhaustion requirement apply to the Plaintiff's complaint for a Writ of  
15 Mandamus. The Plaintiff is owed a duty- the adjudication of her properly filed application to  
16 invite her brother to the United States, which has been duly filed with USCIS formerly known as  
17 INS. Defendants have unreasonably delayed and failed to adjudicate the Plaintiff's application  
18 for more than a decade. The plaintiff has no other adequate remedy available for the harm she  
19 seek to redress- the failure of USCIS to process her application to petition for alien relative in a  
20 timely manner.

21       16. Although exhaustion requirement does not apply in this case, The Plaintiff has  
22 exhausted any administrative remedies that may exist to address this when the US government  
23 simply failed to correctly correspond to the Plaintiff's request to obtain an update on her  
24 application.

WHEREFORE, Plaintiff prays that the Court:

1. Assume jurisdiction of this case;
  2. Compel the Defendants and those acting under them to perform their duty to the Plaintiff's I-130 Petition for Alien Relative.
  3. Grant such other and further relief as this Court deems proper under the circumstance; and
  4. Award the Plaintiff her attorney's fees and costs of court pursuant to the Equal Justice Act (EAJA) or other applicable law.

RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of September 24, 2018 at Tacoma,  
Washington.

KAI LAW GROUP PS

JI MIN KIM , Esq.  
Counsel for Plaintiff, WSBA 43794  
8718 S Tacoma Way Suite A2  
Tacoma, WA 98499  
Phone: (253) 584-1369  
Fax: (425) 358-3460

**COMPLAINT FOR A WRIT IN THE  
NATURE OF A MANDAMUS - 5**

KAI LAW GROUP PS  
8718 South Tacoma Way, Suite A2  
Tacoma, WA 98499  
(253) 584-1369